

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

DEQUE SYSTEMS INC.

Plaintiff,

v.

Case No. 1:24-cv-00217-AJT-WEF

BROWSERSTACK, INC., and
BROWSERSTACK SOFTWARE PVT. LTD.,

Defendants.

REPLY DECLARATION OF RYAN J. MARTON IN SUPPORT OF DEFENDANTS'
MOTIONS *IN LIMINE*

I, Ryan J. Marton, declare as follows:

1. I am a partner with the law firm of Marton Ribera Schumann & Chang LLP, counsel for Defendants BrowserStack, Inc. and BrowserStack Software Pvt. Ltd. (collectively, “Defendants” or “BrowserStack”) in this matter. I submit this declaration in support of Defendants’ Reply Brief in Support of Motions *in Limine* (“MILs Reply”). I have personal knowledge of the facts set forth herein unless otherwise indicated, and if called upon to testify, I could and would testify competently thereto.

2. On August 8, 2024, BrowserStack produced BROWSERSTACK-00000017. This document consists of spreadsheets reflecting financial information related to the accused Accessibility Toolkit which had been collected by BrowserStack in response to Deque’s document requests. The financial information in this document included worldwide revenue, cost, profit, and sales information related to the accused product covering the time period from its release through approximately February 2024.

3. On September 23, 2024, BrowserStack produced BROWSERSTACK-00000653. This document was produced to update the financial information in BROWSERSTACK-00000017 to include data from February 2024 through August 2024.

4. Interrogatory No. 11 to Plaintiff requested that Plaintiff identify “by production number a full and complete copy of each Asserted Work.” *See* D.I. 180-5. The term “Asserted Works” was defined as follows (and was not objected to by Plaintiff): “any and all works asserted in the Action as purportedly copyrighted and allegedly infringed by any BrowserStack Defendant, and shall include without limitation the following 17 works alleged and described in paragraphs 31-32 and Exhibits D and E of the original Complaint filed by Deque in the Action on February 13, 2024 (“Original Complaint”):

	Title	Registration No.
1.	Axe Dev Tools v3.7.0.	TX0009335645
2.	Axe Dev Tools v3.8.0.	TX0009335914
3.	Axe Dev Tools v3.9.0.	TX0009340330
4.	Axe Dev Tools v3.10.0.	TX0009340341
5.	Axe Dev Tools v4.0.0.	TX0009335692
6.	Axe Dev Tools v4.1.0.	TX0009336616
7.	Axe Dev Tools v4.2.0.	TX0009336019
8.	Axe Dev Tools v4.3.0.	TX0009338465
9.	Axe Dev Tools v4.4.0.	TX0009336533
10.	Axe Dev Tools v4.5.0.	TX0009337562
11.	Axe Dev Tools v4.6.0.	TX0009336758
12.	Axe Dev Tools v4.6.2.	TX0009336764
13.	Axe Dev Tools v4.7.0.	TX0009336762
14.	Axe Dev Tools v4.8.0.	TX0009336375
15.	Axe Dev Tools v4.8.5.	TX0009336379
16.	Axe Dev Tools v4.9.0.	TX0009336480
17.	Rules Help Pages (“Rules Help Pages”)	TX 9-359-731

See BrowserStack Software Pvt. Ltd.’s Second Set of Interrogatories to Plaintiff Deque Systems, Inc., a true and correct copy of which is attached hereto as **Exhibit 1**.

5. In response to Interrogatory No. 11, Plaintiff stated the following: “*See* DEQUE000070 to DEQUE006855; and DEQUE009921 to DEQUE009966.” I have reviewed DEQUE000070 to DEQUE006855. All of these documents appear to be printouts of files and/or code related to different versions of axe DevTools and appear unrelated to the Rules Help Pages. I have also reviewed DEQUE009921 to DEQUE009966. This document, a true and correct copy of which is attached as **Exhibit 2**, appears to be the Rules Help Pages identified by Deque in its complaint and identified in response to Interrogatory No. 11. Deque has not supplemented its response to Interrogatory No. 11.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on January 2, 2025 in San Francisco, California.

/s/ *Ryan Marton*
Ryan Marton